A

PICTURE OF SLAVERY,

DRAWN FROM THE

DECISIONS OF SOUTHERN COURTS.

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What is it Judge Woodward thinks Providence has made an incalculable blessing for us? Let us see.

Mr. Justice Woodward, the Democratic candidate for Governor of this State, considers slavery as having been made by Providence "an incalculable blessing," and Mr. Charles J. Biddle, the President of the Democratic State Committee, with George M. Wharton and others, calling Bishop Hopkins, of Vermont, to their assistance, are endeavoring to make people believe that the peculiar institution of the South is by Divine appointment. As Judge Woodward, in the exercise of his judicial functions, has had abundant opportunities to consult the report books of adjudged cases, decided in the Southern States, it might fairly be argued that he coincides in all their conclusions, and that the picture they afford of human bondage is so grateful to his feelings, that he deems the system humane and beneficent. Mr. Biddle, Mr. Wharton, and most of their compatriots, are also lawyers, and should at least know, from the same sources, of what they are approving. For the

Louisiana, emancipation is prohibited, and the slave can, under no circumstances, be freed; and therefore, in that State, where a Will liberated one poor fellow from servitude, he was complacently told that "a slave cannot be a party to any suit but one for freedom, and that emancipation being prohibited by law, he could not even sue for that;" (Jamison *vs.* Bridge, 14 Louisiana Annual Reports, 31.) In Bailey *vs.* Poindexter, 14 Grattan, 132, decided in 1858, a testator provided in his Will that his slaves should have their choice either to be free or to be sold publicly. But the Court said that slaves had no legal capacity to choose or to exercise the power of election between freedom and servitude, and therefore the provision in the Will, giving them the choice, was void and of no effect. They remained, of course, slaves, despite the wishes of their benevolent master.

But slavery condescends to greater meanness than this. In North Carolina they are prohibited by law from keeping various kinds of domestic animals, even by the permission of their owners, and so we find it decided in McNamara *vs.* Kerns, 2 Iredell, 66, where hogs belonging to a slave, kept by him with the knowledge and consent of his master, upon his master's property, and within sight of his house, were seized by some parish overseers, to be sold for the benefit of the parish, despite even of the protest of the master against their being taken.

And look for a moment at the case of Elizabeth P. Gist *vs.* Tookey, 2 Richardson's S. C. Rep., 424, where the plaintiff's slave, who made money over and above his wages, paid $100 to the defendant to purchase his (the slave's) children, the defendant agreeing to buy them for $350, the money to be repaid by the slave as fast as he could earn it. The defendant bought the children, but the plaintiff sued the defendant for the $100,

and recovered it, the Court deciding the slave had no right to any property, and all belonged to his mistress.

The poor children, of course, remained slaves, for the deed of manumission was not to be signed until defendant received the $350 in full, and so the poor slave toiled for nought, and had not the exquisite pleasure of freeing his own children.

His Master may Chastise, and even sometimes Shoot Him, without Punishment.

The power of the master over the person of the slave necessarily involves the right of chastisement, and this may be inflicted in such proportions and to such extent as the owner may deem proper, there being but a single limitation, that it should not be excessive, but whether it is or not is left for a jury (slave-holders, of course,) to judge.

Thus we find the following case, State *vs.* Man, 2 Devereux, 263, in which it appears, that a master having hired a female slave to another person, the latter undertook to chastise her for having committed (so says the report) a *small* offence. During the process she ran off; her master for the time called upon her to stop, which she refusing to do, with the chivalric spirit of the South, the slave being a woman, he shot at and wounded her. But, alas! she had no redress. The Judge tells her the master is not liable to indictment for assault and battery; and feeling how contrary to all sense of justice and humanity such a decision must appear, is compelled to say, "A Judge cannot but lament when such cases as the present are brought into judgment. It is impossible that the reasons upon which they go can be appreciated, but where institutions similar to our own exist and are thoroughly understood. The struggle, too, in the Judge's

own breast, between the feelings of the man and the duty of the magistrate, is a severe one. I would gladly have avoided this ungrateful question." To the same effect is Turner's case, 5 Rand., Virginia, 678.

As the slave cannot defend himself against his master, neither can he against any one else. In every Southern State a black is, by virtue of his color, a slave until he can prove his freedom (Howard *vs.* Howard, 6 Jones, 235). And, in South Carolina, the insolence of a slave towards a white person is an offence for which he may be tried and punished, (*ex-parte* Boughston, 2 Strobhart, 41.) In this case the prosecutrix (a woman) charged the slave with using "insolent language and action" towards her, and the poor victim, being unable to speak for himself, and incapable of producing his fellow-slaves as witnesses, doubtless was well punished, for so vague a charge may be used to distort any trivial circumstance into a grievous offence.

The slave must, therefore, obey his master; if he resists, his master may chastise him at discretion; and yet, singularly enough, the poor creature cannot shield himself behind his commands. This is the doctrine of Sarah *vs.* The State, 18 Arkansas Rep., 114, where it was decided that "when a slave is indicted for a criminal offence, he cannot show it was committed by order of his master, except in mitigation of punishment, when less than a felony." Ordered, therefore, to steal even a chicken, he runs the gauntlet between the master's whip and pistol, and the lash and dungeon of the common jail.

A Slave horribly Mutilated by his Master.

No wonder, then, that the power of the master being so absolute, it sometimes rises into frightful excesses, which occa-

sionally find their way into court. Such, for instance, as the case of Unley *vs.* the State, 11 Humphreys, Tennessee Rep. 172, where, upon the pretext of the slave being lewd and vicious, and it being necessary for his moral reformation, his master, an old man, assisted by his two sons, mutilated him frightfully, *castratus est.* Who but one imbued with the brutalizing sentiments of slavery would have dared to offer such a defence for such an outrage, in a court of justice?

Hunting a Slave with Dogs is right according to Southern Law.

We have heard a great deal at the North of runaway slaves being hunted by dogs, and some people have supposed it was a mere effort of imagination. We assure them, however, it is according to Southern law.

Witness the case of Moran *vs.* Gardner Davis, 18 Georgia Rep., 722, in which it was decided, that "it is lawful to hunt runaway slaves with dogs, provided it be done with a due degree of caution and circumspection." In that case the plaintiff had hired his slave to the defendant. Whilst in the service of the latter he ran away. His master, for the time being, employed a creature by the name of Hamblin, who hunted him with dogs, but the poor fellow, terrified by the pursuit, plunged into a creek and was drowned. The owner sued him for the value of the slave, such an idea as punishing the miscreant criminally, being out of the question. But the owner is told by the court "that it is lawful to hunt a slave with dogs on *general principles*, provided the dogs would not lacerate, and otherwise *materialy* injure the slave—the statute of the State prohibiting the use of harsh or cruel treatment of slaves, using the words *unnecessarily biting or tearing with dogs.*"

But this approves itself also to the moral and religious convictions of the judge, who says: "The South has lost sixty thousand slaves, worth twenty-five or thirty millions. Instead, therefore, of relaxing the means allowed by law for the security and enjoyment of this species of property, the facilites offered for its escape, and the temptation and encouragement held out to induce it, constrain us, willingly or otherwise, to redouble our vigilance, and to tighten the cords that bind the negro to his condition of servitude—a condition which is to last, if the Apocalypse be inspired, until the end of time;" and he then cites at length, (Revelation, 6th chap., 12th to 17th verse,) "every bondman (doulos, slave or servant,) and every freeman hid themselves."

The Marriage of Slaves an idle Ceremony, and the children of Married Slaves illegitimate.

Many apologies and explanations have been made as to the condition of slaves at the South in regard to marriage, and the effort has been used to lead us, at the North, to believe that matters in this respect were not so bad as represented. But what say the reports?

Let us examine Merlinda *vs.* Gardner, 24 Alab., 719, and there we find the law laid down thus:

"Slaves cannot contract marriage, nor does their cohabitation confer any legal rights on their children. Persons in that condition are incapable of contracting marriage, because that relation brings with it certain duties and rights, with reference to which it is supposed to be entered into: but these are necessarily incompatible with the nature of slavery, as the one cannot be discharged nor the other be recognized without doing

violence to the rights of the owner. In every State where slavery exists, and the question has been presented, it has so been decided."

"If the father and mother, being slaves, are freed by the master's will, and the father afterwards acquires property, the children cannot inherit his property."

"As a necessary consequence it escheats to the State."

The marriage, then, of slaves is a mere idle ceremony. Their children are illegitimate and have no rights, and even freedom puts their offspring in no better position.

To the same effect is Girod *vs.* Lewis, 6 Martin, Louis. Rep., 559.

Therefore a Slave Cannot Avenge the Grossest Indignity Perpetrated on his Wife.

No wonder, then, that we find such decisions as the following:

Alfred *vs.* The State, (8 George, 37 Mississippi Reports,) in which it was ruled that "adultery with a slave's wife is no defence to a charge of murder, and that a slave indicted for the murder of his overseer cannot introduce, as evidence for his defence, upon a trial for murder in the first degree, the fact that the deceased, a few hours before the killing, had forced the prisoner's wife to submit to his embraces, and that this had been communicated to the prisoner before the killing." Poor fellow! Wounded to the quick by an outrage committed on the partner of his bosom, which, slave as he was, he could feel, it could not be offered even in mitigation of his punishment.

Or the following: George *vs.* The State, 37 Mississippi Rep., 8 George, 317, where a terrible outrage was forcibly committed

and successfully perpetrated by a slave upon the chastity of a female slave under the age of ten years, and yet the Court decided it was no offence. White women might be protected from similar wrongs, but the poor slave girl was beyond the pale of the law. She is sent away with such feeling remarks as these on the part of the Judge: "The slave is held *pro nullis*, and of the right of personal security, personal liberty, and private property, the slave is deprived. There are two or three early cases founded mainly upon the unmeaning twaddle in which some humane Judges and law-writers have indulged as to the influence of the natural law, civilization, and Christian enlightenment in amending the harshness of the law." But these considerations found no place in the bosom of the Mississippi Judge, and the harshness of the law, in this case, had its full exercise.

This case was decided as late as 1859, and its results even startled the darkened condition of Mississippi, for, at the ensuing session of the Legislature of that State, the crime was made punishable by express statute.

Emancipation almost Impossible.—The Wife of a Slave-owner and his Own Child both Emancipated by him, Decreed, after his Death to be Slaves, and part of his Estate.

We have seen that in Louisiana emancipation is utterly prohibited. How difficult it is in any slave State can easily be discovered by any one who will examine their statutes and the decisions based upon them. The process is encumbered with so many difficulties, requiring oftentimes the sanction of the Legislature, that practically it would almost appear to be a hopeless task. The poor slave cannot approach the Legislature, and is,

therefore, left at the mercy of an executor or administrator, in the case of a Will, who may throw every obstacle in his way, or decline any interference whatever on his behalf. Besides, the whole genius of the institution is against freedom.

Look, for instance, at the celebrated Brasealle case, often cited, and reported in 2d Howard Mississippi Reports, 837. There Elisha Brasealle, a planter in Mississippi, was faithfully and successfully nursed by a mulatto slave during a dangerous and protracted illness. He afterwards took her to Ohio, had her educated, and finally married her, having first emancipated her, by deed recorded in Ohio and Mississippi. He returned with her to the latter State, where she gave birth to a son. Upon Mr. Brasealle's death his Will was found, in which he ratified the deed of emancipation, and devised all his property to this son, whom he acknowledged to be such. The Will, however, was successfully contested as to the validity of the emancipation and devise to the son, by some distant relations of the testator in North Carolina. The Judge (Sharkey,) in his opinion, uses this language: "The state of the case shows conclusively that the contract had its origin in an offence against morality, pernicious and detestable as an example. But, above all, it seems to have been planned and executed with a fixed design to evade the rigor of the laws of this State. The acts of the party in going to Ohio with the slaves, and there executing the deed, and his immediate return with them to this State, point with unerring certainty to his purpose and object. The laws of this State cannot be thus defrauded of their operation by one of our own citizens."

This merciful Judge gave no quarter to the slaves. No time was afforded to apply to the Legislature to sanction the emanci-

pation, but the greedy North Carolinians took the whole of the estate, and the mother and son were decreed, in the language of the Judge, "*still slaves, and part of the estate of Elisha Brasealle.*"

How the Ancient Jews treated their Slaves.

Let us contrast with this sketch of American slavery, the effect produced upon the ancient Jew, by the laws of Moses, relative to their bondmen and bondwomen, the Canaanites. Says Maimonides, a high authority, in his Treatise Yad Hacksakab, Book 4: "Though the law did not expressly enjoin us not to treat the heathen slaves with rigor, yet piety and justice require us to be merciful and kind to them. We ought, therefore, not to oppress them, nor lay heavy burdens upon them; nay, we ought to let them partake of the same food with which we indulge ourselves. Our pious ancestors made it a rule to give their slaves a portion of every dish prepared for their own use; nor would they sit down to their meals before they had seen that their servants were properly provided for, considering themselves their natural protectors; remembering what King David said, "Behold, as the eyes of slaves are directed towards their masters, and as the eyes of the handmaid towards her mistress, ' " &c.

Equally improper it is to insult them by words or blows. The law has delivered them over to subjection, but not to insult. Nor must we bawl at them, or be in a great passion with them; but speak to them mildly, and attend to their reasonable complaints. Such conduct Job considered as very meritorious, as he said, "If I ever did despise the cause of my slave or handmaid when they contended with me, what, then, shall I do when the Almighty rises up? Did not He that made me make him?"

Cruelty and violence characterize Heathen idolators; but the sons of Abraham, the Israelites, whom the Holy (blessed be His name !) has so eminently distinguished by wise and just laws, ought to be kind and compassionate, and as merciful as He of whom it is said, "He is good to all, and his mercy extends over all his works."

How Christians should treat their Slaves.

So, thought this distinguished Israelite, was the influence of the Mosaic law. And what say the Apostles of our Lord ?

"And ye masters do the same things unto them, *forbearing threatening;* knowing that your Master also is in heaven; neither is there respect of persons with him." Ephesians, 4th ch., 5th verse.

"Masters give unto your servants that which is *just* and *equal;* knowing that ye also have a master in heaven." Colossians, 4th ch., 1st verse.

How does the picture we have drawn of Southern slavery, from its own records, contrast with Jewish slavery and the precepts of the Gospel ?

Judge Woodward thinks the Southerners treat their Slaves like Christians.

The reader can now understandingly answer the question proposed by Judge Woodward, in his celebrated speech of December 13, 1860:

"Do you not see, and feel, how good it was for us to hand over our slaves to our friends of the South—how good it was for us that they have employed them in raising a staple for our manufacturers—how wise it was to so adjust the compro-

mises of the Constitution, that we could live in union with them and reap the signal advantages to which I have adverted? *We consigned them to no heathen thrall, but to Christian men professing the same faith with us—speaking the same language—reading the golden rule in no one-sided and distorded shape, but as it is recorded—a rule to slaves as well as masters.*"

What do you think, Reader—are such men Christians?

We have examined this system, as judicially developed under these masters, and what is the result? No faith is to be kept with a slave—he has no rights—he may be beaten without any redress—his property is not his own—if even his master is tender-hearted, such kindness of feeling must be repressed—he may be lawfully hunted by dogs—the forcible violation of his wife is no excuse for vengeance on the aggressor—the chastity of a female slave is of no account—sympathy for them is mere "twaddle,"—and their restoration to freedom should be discountenanced.

Does Judge Woodward, whose question in the light of these decisions seems the sharpest irony, consider this a Christian and humane institution—and the men who wield it; "Christian men, reading the golden rule in no one-sided and distorted shape,"—doing to others as they would have others do to them? If so, his standard of Christianity is far different from our own, and we trust he may find no sympathy with it from any other quarter.

TELL JUDGE WOODWARD,

By your Voting against Him—

NO!!